REMARKS/ARGUMENTS

Reconsideration and allowance of the subject application are respectfully requested.

The Examiner's attention is directed to commonly assigned related Application Serial No. 09/785,241, filed on February 20, 2001, (corresponding to Attorney Reference No. 550-216), which this Examiner is also handling.

Claims 1-7, 9-16, 18-25 and 27 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent 5,948,104 to Gluck et al. This rejection is respectfully traversed.

To establish that a claim is anticipated, the Examiner must point out where each and every limitation in the claim is found in a single prior art reference. *Scripps Clinic & Research Found. v. Genentec, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Every limitation contained in the claims must be present in the reference, and if even one limitation is missing from the reference, then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Gluck fails to satisfy this rigorous standard.

The Examiner contends that all of the features of the independent claims 1, 10 and 19 are disclosed in the abstract of Gluck. Gluck's chief goal is to update virus signature files "without putting the onus of updating on the user." (Column 2, lines 37-38). Gluck achieves this objective by including a set of updated virus signature files on the portable memory already being used to install a program, files or other data to the computer. In

other words, the computer's virus signature files are automatically updated with the installation of new data and/or programs. See, for example, column 3, lines 65-67.

The independent claims 1, 10 and 19 are not directed to removing the onus of updating virus signature files from the user. Instead, these claims are directed to an entirely different problem not recognized or solved by Gluck. The inventors of the present application recognized that with the enormous number of known computer viruses, which increases on a daily basis, typical anti-virus programs must test many thousands or tens of thousands of different known computer viruses, and that number will only increase. Consequently, the amount of computer processing resources required to detect such viruses is also quite large and ever-increasing.

Rather than burdening an anti computer virus program with the need to access, manipulate and possibly apply a full library of virus tests, claims 1, 10 and 19 select specific ones of those tests (rather than all of the tests) to apply to a target file, depending on the specific test requestor that triggered testing of a target computer file. Examples of different types of test requestors include e-mail body scanners, e-mail attachment scanners, on-access scanning agents, on-demand scanners, firewall scanners, network server scanners, etc. In other words, if an e-mail body scanner requests an anti-virus scan, only those tests that would be relevant for scanning the e-mail body would be executed. Other tests stored in the anti-virus library that might be relevant to firewall scanners or the network server scanners, for example, would not be executed. In this way, considerable time and data processing resources are conserved.

Accordingly, it is evident that Gluck's including virus signature updating data along with other program or data being installed using a portable memory neither discloses nor suggests selecting "which test within said test data to apply to said target file in dependence upon which test requestor triggered said one or more tests to be applied to said target computer file," as recited in independent claims 1, 10 and 19. Withdrawal of the anticipation rejection based upon Gluck is therefore requested.

Claims 8, 17 and 26 stand rejected under 35 USC §103 as being unpatentable over Gluck in view of the Examiner taking "official notice." This rejection is respectfully traversed.

With respect to the Examiner taking "official notice," Applicants respectfully request that the Examiner cite a reference to support his position (see MPEP Section 2144.03: "if the applicant traverses such an assertion, the examiner should cite a reference in support of his or her position"). Moreover, the Examiner's official notice, even if it were accepted for purposes of argument only, does not remedy the deficiencies of Gluck noted above. Finally, claims 8, 17 and 26 are not simply directed to an e-mail scanner. Rather, these claims recite specific test requestors that would choose only a subset of signatures to scan.

The application is in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
John R. Lastova
Reg. No. 33,149

JRL:kmm
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100